915

SUPREME COURT OF THE UNITED STATES.

No. 151.

THE UNITED STATES, APPELLANTS,

vs.

ANTONIO MARIA LUGO.

APPEAL FROM THE DIST. COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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Transcript of the proceedings in case No. 308—*Antonio Maria Lugo, claimant*, vs. *The United States, defendant—for the place named "San Antonio."*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this thirty-first day of August, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Antonio Maria Lugo, for the place named "San Antonio," was presented and ordered to be filed and docketed with No. 308, and is as follows, to wit:

(Vide pages 5 and 6 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *Sept. 1st*, 1852.

In case No. 308, Antonio Maria Lugo, for the place called San Antonio, the deposition of Santiago Arguello, a witness in behalf of the claimant taken before Commissioner Hiland Hall, was filed, and is in the words and figures as follows, to wit:

(Vide pages of this Transcript 9 and 10.)

In the same case, the deposition of Abel Stearns, a witness in behalf of the claimant, taken before Hiland Hall, was filed, and is in the words and figures as follows, to wit:

(Vide pages of this Transcript 7 and 8.)

LOS ANGELES, *Sept. 7th*, 1852.

In case No. 308, Antonio Maria Lugo, for the place called San Antonio, the deposition of Antonio Maria Lugo, the claimant, a witness in behalf of himself, was taken before Commissioner Harry J. Thornton, was filed, and is in the words and figures as follows, to wit:

(Vide pages of this Transcript 10 and 11.)

In the same case, the deposition of Felipe Lugo, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed, and is the words and figures as follows, to wit:

(Vide pages of this Transcript 11 and 12.)

LOS ANGELES, *Sept. 28th*, 1852.

In case numbered 308, the counsel for the claimant filed the following motion, to wit:

Moved that case numbered 308 be placed on the trial docket; which motion was taken under advisement.

SAN FRANCISCO, *Feb. 14th*, 1853.

On motion of the United States associate law agent, ordered that the following case be placed on the trial docket, to wit:

No. 308—Antonio Maria Lugo.

SAN FRANCISCO, *Feb. 14th*, 1853.

Case No. 308—Antonio Maria Lugo, for the place named San Antonio—called. The counsel for the claimant, Mr. Halleck, read the petition and the pages in evidence; the United States associate law agent filed his brief; case submitted and taken under advisement by the board.

SAN FRANCISCO, *Feb. 21st*, 1853.

In case No. 308—Antonio Maria Lugo, for the place named San Antonio—Commissioner Harry J. Thornton delivered the opinion and the decree of final confirmation of this board.

Ordered, that the opinion and the decree of final confirmation of this board, delivered this day in this case, be recorded in the journal, which opinion and decree are in the words and figures as follows, to wit:

(Vide pages of this Transcript 49, 50, 51, 52, and 53.)

FRIDAY, *Oct. 15th*, 1852.

In case No. 308—Antonio Maria Lugo, for the place named "San Antonio"—the deposition of Ignacio Del Valle, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, with documents marked No. 1, H.H, and the translation thereof annexed thereto, was filed, and is in the words and figures as follows, to wit:

(Vide page of this Transcript 12.)

To the honorable Commissioners to settle private land claims in California.

The petitioner, Antonio Maria Lugo, respectfully represents, that in the year 1810, José Arguello, governor of California, by virtue of authority in him vested, granted to the petitioner a certain tract of land called San Antonio, in the now county of Los Angeles; that in the same year he was duly put in possession of said land by the commissioners of Los Angeles, by the direction of the aforesaid governor; that in the year 1823, the title given to the petitioner by Governor José Arguello was submitted to the then Governor and Commandant Don Louis Arguello, and by him recognised and confirmed, as shown

by the order of said governor, dated April 1st, 1823, a translation of which is submitted herewith, marked "A."

That in the year 1827, José Maria de Echeandia, governor of California, granted to the petitioner an extension of said rancho of San Antonio, and the possession of it duly given.

That the aforesaid grants or title papers being subsequently lost, the petitioner, in the year 1837, applied to the governor of California for a formal title of the land which he then possessed, and certain extensions described and marked out in the map accompanying said petition; that on the 27th day of September, 1838, Juan B. Alvarado, governor of California, by virtue of authority in him vested, granted the said land with the limits and boundaries marked out in the said map, all of which is shown by the original espediente, a translation of which with a copy of the map is submitted herewith, marked "B." The petitioner also submits herewith a copy of the record of espediente in the archives under the charge of the surveyor general, marked "C."

And the petitioner further represents, that in the month of June, 1839, the judicial possession of the said tract of land was duly given, and the land duly surveyed according to the usages and customs of the country, and the boundaries marked out by the proper authority, a translation of which record of survey and possession is submitted herewith, marked "D."

That he has been for some forty-two years, and now is, in the quiet and peaceful possession and occupation of the aforesaid tract of land.

That he knows of no conflicting claims.

That he relies for confirmation of title upon the original papers, copies or translations of which are submitted herewith, upon the records and minutes relating thereto in the archives of the former governments of California, and upon such other and further proofs as he may be advised are necessary:

Wherefore, he prays the commissioners to confirm to him the said tract of land, as described in the grant and map, and marked out in the juridical survey and possession.

By his attorneys, HALLECK, PEACHY & BILLINGS.

Filed in office, August 31, 1852.

GEORGE FISHER, *Secretary*.

OFFICE OF THE BOARD OF COMMISSIONERS
OF CALIFORNIA LAND CLAIMS,

LOS ANGELES, 1*st Sept.*, 1852.

On this day, before me, Hiland Hall, one of the commissioners for ascertaining and settling private land claims in the State of California, came Abel Stearns, a witness produced in behalf of the claimant in the petition of Antonio Maria Lugo, being No. 308 in the docket of the commissioners, and was duly sworn.

The land agent was notified and attended.

In answer to questions by Mr. Halleck, counsel for the petitioners, the witness certified as follows:

My name is Abel Stearns; I am aged fifty-four, and reside in Los Angeles; I have resided in California over twenty-three years; I am acquainted with the handwriting and signatures of Janancius Abilo, Narciso Botello, and Ignacio Palemares; I have examined their signatures on the last written page of a paper marked "A," now before me, and purporting to be a record of juridical possession given of the rancho of San Antonio in 1839, and I have no doubt their said signatures are genuine; I have often seen the said persons write, and am familiar with their signatures.

I am also acquainted with the handwriting and signatures of Guillermo Cota, José Perez, Vincenta Morega, Felipe Lugo, José Sepulveda, Narciso Botella, Francisco Pontago, Basilio Valdez, and Juan B. Alvarado. I have examined their signatures on the several pages of a paper marked "B," purporting to be the original title papers of the petitioner to the rancho San Antonio, and believe the said several signatures to be genuine. The plan or diagram which *are* attached to said paper "B," and forms a part of it, was drawn by myself as early as 1837 or 1838, and is, as I believe, the plan referred to in the title papers to which is annexed.

I am acquainted with the land described in the title and plan before mentioned, and have known it ever since the year 1831, when said Lugo was in possession of it, and he has continued to occupy it ever since. In 1831, he had some five or six thousand cattle on it, and he has now some ten thousand cattle on it; when I first knew the place, there was a house on the land and it was inhabited; other houses have since been built, and there are now four or five houses on it. The claimant and his sons reside on the land.

In answer to questions by the law agent, the witness says, that he believes the claimant or his sons have cultivated a portion of the land every year. There is a vineyard on the land, and I have seen grain growing there; I have seen some ten or fifteen acres enclosed—there might have been more; his principal business has been the raising of stock. I think the cattle of the Mission of San Gabriel were on a portion of the land up to the year 1832 or 1833; I cannot tell how it was previous to 1831, not having been here; the part thus occupied by the mission might have been half a league or more of the upper part of the land; I think all the land is within ten leagues of the sea-coast; I know of no fact or circumstance to impeach the title of claimant, unless it may arise out of a claim of the city of Los Angeles; I think the land cultivated at any one time could not have exceeded one hundred acres; the cultivation has been changed sometimes from one place to another; all the land which has at any time been under cultivation would not probably exceed five hundred acres.

ABEL STEARNS.

The witness having been further cross-examined by the law agent, certified as follows:

Of the persons before named to whose signatures I have testified, Januario Abila, Narciso Botello, Felipe Lugo, and Basilio Valdez, are living and reside in the city of Los Angeles; Ignatio Palmanares and José Sepulveda are living and are residents of the county of Los Angeles; Vincente Moraga, I believe, is now living in the county of Santa Barbara; and Juan B. Alvarado, in the county of Contra Costa; the others, I believe, are deceased.

ABEL STEARNS.

Sworn and subscribed before me,

HILAND HALL, *Com'r*.

Filed in office, Sept. 1st, 1852.

GEO. FISHER, *Secretary*.

Deposition of Santiago Arguello.

LOS ANGELES, *Sept. 1st*, 1852.

On this day, before Hiland Hall, one of the commissioners for ascertaining and settling private land claims in the State of California, came Santiago Arguello, a witness produced in the behalf of the claimant, in the petition of Antonio Maria Lugo, being No. 308 on the docket of the commissioners, and was duly sworn.

The law agent was notified and attended.

The testimony of the witness was given in the Spanish language and interpreted by the secretary.

My name is Santiago Arguello; my age is sixty years; I reside on my rancho, near San Diego, in Lower California, and I have resided in California all my lifetime. I am acquainted with the handwriting of Louis Arguello, who was my brother; the signature Arguello, which appears upon a paper now before me, purporting to be a decree in relation to the title of the claimant, dated April 10th, 1823, at Monterey, and marked "C," is his genuine signature.

In answer to questions by the law agent, the witness says, that Louis Arguello became governor of California in the latter part of the year 1822, but he cannot tell the precise time, and he continued to be governor until the month of November, 1825, when he was succeeded by José Maria Echeandia.

S. ARGUELLO.

Subscribed and sworn before me,

HILAND HALL, *Com'r*.

Filed in office, Sept. 1st, 1852.

GEORGE FISHER, *Secretary*.

Deposition of Antonio Maria Lugo.

OFFICE OF THE BOARD OF COMMISSIONERS
OF CALIFORNIA LAND CLAIMS,

LOS ANGELES, *Sept. 7th*, 1852.

On this day, before Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in California, came

Antonio Maria Lugo, a witness produced in behalf of the claimant, Antonio Ma. Lugo, whose petition is No. 308 on the docket of the board, and was duly sworn. His evidence, being given in Spanish, was interpreted by the secretary.

The law agent attended.

Answer to Questions propounded by Counsel for Claimant.

My name is Antonio Ma. Lugo; I am the claimant in this case to the rancho of San Antonio; my age is 78 years, and I am a native of California. In the year 1816, being in Santa Barbara, I received a written decree from Governor Arguello, directing the commissionado of this pueblo to put me in the possession of *of* the rancho of San Antonio, which I now occupy. The said commissionado, Guillermo Cota, together with Francisco Abila, alcalde, gave me a written certificate of said possession. The first mentioned paper was given to Governor Cota by me, somewhere about the year 1816; on account of a dispute between me and the Pueblo de los Angeles, Governor Cota either lost the said paper or neglected to return it, and I have never seen it since. About the year 1831, in the time of Governor Victoria, I directed my son Felipe to loan the second of the afore-mentioned papers to Antonio Ygnacio Abila; I understood from my son that he had so lent the paper, which has never been returned, and is believed to be lost, as said Abila cannot remember what has become of it.

ANTONIO MARIA ⋈ LUGO.

The above affidavit was sworn to, and the affiant made his mark or cross in my presence, this 7th of Sept., 1852.

HARRY J. THORNTON,
Commissioner.

Filed in office, Sept. 7th, 1852.

GEORGE FISHER, *Secretary.*

Deposition of Felipe Lugo.

OFFICE OF THE BOARD OF COMMISSIONERS
OF CALIFORNIA LAND CLAIMS,
LOS ANGELES, *Sept'r 7th*, 1852.

On this day, before Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in California, came Felipe Lugo, a witness produced in behalf of claimant, Antonio Ma. Lugo, whose petition is No. 308 on the docket of the board, and was duly sworn. His evidence being given in Spanish, was interpreted by—

The law agent attended.

Answer to Questions propounded by Claimant.

My name is Felipe Lugo; my age is 47 years; I was born in California, and reside in the county of Los Angeles; about the year 1831, in the time of Governor Victoria, by order of my father, Antonio Ma.

Lugo, the claimant in this case, I delivered to Antonio Ygnacio Abila a paper called a certificate of the possession and boundaries of the rancho of San Antonio, in this county. I have often asked said Abila for said paper, but he says he has no recollection of what has become of it, and I believe has lost it. Said Abila is a very old man, and has mostly lost his memory.

Before giving this paper to said Abila, I had often seen it in the possession of my father, and always understood it to be the ancient possession of said rancho of San Antonio. I never read the paper nor heard it read, but I understood from my brother at the time that it was the ancient possession aforesaid.

FELIPE LUGO.

The law agent being present, the above sworn to and subscribed before me, at Los Angeles, 7th Sept., 1852.

HARRY J. THORNTON, *Comm'r.*

Filed in office, Sept. 7th, 1852.

GEO. FISHER, *Sec'y.*

Affidavit of Ygnacio del Valle.

OFFICE OF THE U. S. LAND COMMISSION,
LOS ANGELES, *Oct.* 18*th*, 1852.

On this day, before Hiland Hall, one of the commissioners for ascertaining and settling private land claims in California, came Ygnacio del Valle, a witness produced in behalf of the claimants, José del Carmen Lugo et al., whose petition is No. 316 on the docket of the board, and was duly sworn. His evidence, being in the Spanish language, was interpreted by the secretary.

The associate law agent was notified and attended.

1st question. What is your name, age, and place of residence?

Ans. My name is Ygnacio del Valle; my age is 44 years; I reside in Los Angeles, and have resided in California 27 years.

2d question. Say if you know the signature of Juan B. Alvarado; if his signature to the document before you, marked No. 1, H. H., is genuine, and if the document is genuine?

Ans. I am acquainted with the signature of Juan B. Alvarado; his signature to this document is genuine, and the document itself is, to the best of my knowledge and belief, also genuine.

YGNACIO DEL VALLE.

Sworn and subscribed before me,

HILAND HALL.

Al Gefe Superior Politico:

Don Ant'o Ma. Lugo, vecino de este pueblo de nuestra Señora de Los Angeles, en provincia de la Alta California, ante V. S. se presente pr. presente pr. medio del sig't instancia, á fin de quedar totalmento

satisfecho, con la resolucion de V. S. que despues de vistar mis esposiones, se servia estender á continuacion de ql. En el año de 1810, se digno el Señor José Arguello, concedir me la posicion de en nadacido citio en las inmediociones del pueblo de mi residencia, previan todas la circumstancias ql. preceden á una concesion igual como le demuestra el documento ql. acompaño y pareciendo lugar, tanto á la vista del pueblo como á los perjuicios que á mi se le guen el ql. el ayuntamiento de dicho pueblo haya de parecido el decreto á mi favor, que lleva el repetido documento ordenandomo sin otra apelacion, que quitare mis corrales, huesta y de mas trabajados en obsequio y fomentacion de a quellas tierras, agregandose que desde q. tomé posecion de ellas hasta el tpo. presente no habiendo precisado interrupcion ni reclamo orzan requisito y favorese la ley 2 del tit. 23, bib. 4, de la recopilacion y á letra dia quando alguno despoja á otro de la posecion y tubriese predicante, su autoridad á con de juez sin ser citado hayado y vuelto por derecho aunque sea en virtud de reculito del principe luega el del pasado á de su restitudo del desposo y citio. Sin que autes de la restitucion se oyga al despasador quien debe recitatud legalmente los perjuicios y ajant'os por cita saber les. Señor agregar les servicios tan sabidas y en diferentes estilos he ho echo en este pais primere mente dos salidos de campañor en persecucion de indios malvados que á mi costa y en mis caballos tengo echos, con el teniente Don Gabriel Moraga, mas de medio año ql. estaba trabajando personalmente, con mi disposicion y bienes en la nueva iglesia de este pueblo, y por ultimo cinco veces ql. he salido d'to alcalde los ql. daran à entender los opiniones de mi conducta entro los moradores de repetido pueblo. Por t., A. V. redidamente pido y suplico se digne aplicar todas las perfecciones de ql. esta ordenado su recta justicia en favor de lo solicitado es que dan reconocido.

Monterey, Marzo 31, de 1823.

ANTONIO MA. LUGO.

MONTEREY, 1*o de Abril, de* 1823.

En vista de esta representacion y papel ql. lo acompaño no se ql. pendimento ha obrado el ayuntamiento del pueblo, contra toda justicia ql. se hayo responsable de los saños y perjucios, ql. se le paren el demandanto, por reclamo de pase este individuo legituramente el terreno ql. se le señalo hace el tiempo de 13 años, y por tanto no se le pondra en barazo alguno, en la fomentacion del sitio de San Antonio, á donde tiene los ganados huesta y corrales, y al mismo tiempo encargo al citado ayuntamiento se obstenga en casas semjantes á este sin mi conocimiento.

ARGUELLO.

Filed in office, Sept. 1st, 1852.

GEO. FISHER, *Secretary.*

Document annexed to deposition of S. Arguello, before H. Hall, commissioner.

San Antonio.—Antonio Ma. Lugo.

To the Governor:

Don Antonio Maria Lugo, resident of the pueblo of nuestra Señora de Los Angeles, in this province of Upper California, before your excellency presents himself, by means of the following petition, to the end that he may remain entirely satisfied with your excellency's decision, which you will have the goodness to make out, in continuation of this, after looking over my exposition.

In the year 1810, the señor captain, Don José Arguello, was pleased to grant me the possession of a small place in the neighborhood of the pueblo of my residence; all the steps being previously taken which precede similar grants, as is shown by the document which I transmit herewith; and it appearing proper as well to the view of the pueblo as to the prejudices which follow me, that the ayuntamiento of said pueblo should have disregarded the decree in my favor, which the said document bears, ordering me, without other appeal, to take away my corrals, garden, and other labors, for the improvement and encouragement of those lands, adding to this, that since I took possession of them until the present time, they had made no interruption or claim, a great requisite which is favored by the law, 2 title B, book 4 of the recopilacion, which says literally: "When any one shall eject another from the possession which he may have, whether privately of his own authority or by that of a magistrate, without being summoned and evicted by law, although it be in virtue of a rescript of the prince, the person ejected shall be immediately restored to the property, and this without the ejection being heard before restitution, who ought surely to make good the damage and losses."

To this wise law, sir, are added the well-known services which I have rendered in this country in different manners: firstly, two campaigns in the pursuit of the hostile Indians, which I have made with Lieutenant Don Gabriel Morego, at my own cost and on my own horses, more than half a year, which I was laboring personally with my labors and property on the new church of this pueblo; and lastly, five times I have been elected alcalde, which shows the opinion of my conduct among the residents of the pueblo aforesaid. Wherefore, I earnestly pray and beseech your excellency to have the goodness to apply all the perfections with which your strict justice is adorned, in favor of that solicited, for which I will remain grateful.

Monterey, March 31st, 1823.

(Signed) ANTONIO MA. LUGO.

(Marginal order in the above.)

MONTEREY, *April* 1*st*, 1823.

In view of this representation and the paper which accompanies it, I do not know with what foundation the ayuntamiento of the pueblo has acted against all justice, and I make it responsible for the damages and injuries which may come upon the complainant according to his claim, for this individual possesses legitimately the land which was

marked out for him thirteen years ago; and therefore, he will not be impeded in any manner in the improvement of the place of San Antonio, where he has his cattle, garden, corrals; and, at the same time, I charge the aforesaid ayuntamiento to abstain in cases similar to this without my knowledge.

(Signed) ARGUELLO.

I certify the foregoing to be a true and correct translation from the original Spanish document on file in this office, in case No. 308.

ANTONIO MA. LUGO.
GEO. FISHER, *Sec'y.*

Filed in office Aug. 31st, 1852.

GEO. FISHER, *Sec'y.*

[*For map see original, page* 16.]

Digo yo Guillermo Cota que hallandose me su comicionado en esta ciudad en el año 1810, tuve orden del S'or Don José Arguello, gobernador interino en aquel tiempo, por dar posecion de un sitio ó terreno para civa de ganado mayor á Don Antonio Ma. Lugo, y lo verifique en el llamado San Antonio, y tirando Rio Arriba del de San Gabriel, de puso por lindero el corral de las boregas imediato el parage nombrado yo ym'e de alli en demanda de esta poblacion hasta unos alisos unicos que hay y de estos al aguage del arenal y de alli hasta el frente del corral vieja lindando con el rio yo dicho. Todo fue bajo la inteligencia de que no perjudicacia á ningun individuo de esta ciudad, y á pedimento del interesado doy esta en la ciudad de Los Angeles, Ang. a 18 de Marzo, de 1837.

GUILLERMO COTA.

Digo yo Guillermo Cota que siendo alcalde en esta ciudad el año de 1827, por orden del s'or comandante g'ral, Don José Maria de Echandia, se le amplio el sitio á Don Antonio Ma. Lugo y fue desde los Alisos que tiene por linderos hasta la puerto de la meza.

Angeles, Marzo 18, de 1837.

GUILLERMO COTA.

M. Y. Ayuntamiento:

El ciudadano Ant. Ma. Lugo, viceno de este pueblo, ante V. S., con el respeto debido se presenta y dice, que teniendo ya un crecido numero de ganado mayor y no siendo suficiente por su fomento, el terreno en que se halla pide á V. S. tenga a bien ampliar á este por el rumbo este desde el demadero de la cañada de los Alisos hasta el camino principal y vega del Rio de San Gabriel, lo que en esta estencion

comprenda á los ejidos del pueblo. Por tanto, á V. S. suplica se sirva acceder le la gracia que solicita protestando no su de malicia y lo necesario se serviendose tambien recibir este en papel comun por no haberlo en el lugar de ningun sello.

Pueblo de Los Angeles, Sep'bre 6, de 1833.

ANTO. MA. LUGO.

PUEBLO DE LOS ANGELES, *Abril* 14, 1834.

En session de 17 de M'zo, acordo este illt'o ayuntamiento el que se presenta al interesado el terreno que solicita por tener algunos meritos por que se conceda esta gracia, entre tanto la ex'ma deputacion territorial determinan lo conveniente sobre este clase de terrenos pa. perteniciente a los ejidos de este pueblo. Debera quedar entendido el agraciado que por ningun motivo permitera el que se perjudique les bienes y demas propiedades de la comunidad de este lugar. Al alcalde consti'l de d'ho pueblo, asi lo firmo con el s'rio respectivo.

JOSE PEREZ.

VICENTE MORAGO, *S'rio*.

Ex'mo S'or Gobernador:

Antonio Ma. Lugo, vecino de esta ciudad, ante la autoridad de V. E. conforme á derecho, comparesco y digo, que tenido un numero consistante de ganado nacuno y caballada suficiente pa. poblar los sitios que provisionalmente tengo concedidos como consta de las tres documentos y comprende el adjunto espediente vengo en suplicar á V. E. se digne me dar me la correspondiente posecion y documento que me sirba de titulo. Los terrenos que poseo y los que actualmente pido la posecion sin los que manifiesta el diseño que en lamina compone lo foja 1a del citado espediente.

Tambien espero que V. E. se digne dispensar me el uso del papel comun por no haber del que corresponde.

Angeles, Abril 26, de 1837.

Por mi s'or padre, FELIPE LUGO.

S'TA BARBARA, *Mayo* 9, *de* 1837.

Informe el I. ayuntamiento de la ciudad de Los Angeles, se el interesado su esta instancia obtiene todos los requisitos legales para su atendido en su solicitud, se el terreno que pretende es valdio y se pueda adjudicarse le en colonizacion conforme á la ley.

Evacuados estas informe volvera este espediente al gobierno pa. resolucion.

ALVARADO.

ANGELES, *Mayo* 20, *de* 1837.

Dado cuenta al il'tre ayuntamiento de este ciudad, en sesion de hoy con este espediente, acorde pasara á la comision de terrenos valdios pa. ql. producen el informe ql. se pide.

NARCISO BOTELLO, *Scr'o*.

Ass'a: JOSE SEPULVIDA.

1. Ayuntamiento:

La comision encargada de abiro dictamen en el espediente ql. Don Antonio M'a Lugo, sobre posecion de terrenos ha examinado los puntos á ql. se contrae lo consult'n que se le ha confiado y por conclusion pone al conocimiento del ayuntamiento el articulo siguiente:

Don Antonio M'a Lugo, ciud'no Mexicana, vindo y padre de familia, con los bienes suficientes para poblar los terrenos ql. ocupa los cuales son de regadia temporal y abrevadero, y se hallan cituados como á legua y medio de esta ciudad y considera ql. no hay obstaculo ninguno para ql. se conseda al solicitante lo posesion que pretende.

Angeles, Mayo 20, de 1837.

FRANCISCO PANTOJA,
BASILIO VALDEZ.

Otro si: La comision opino como conveniento y á los interesados en esta instancia, se les preveniso por el ayuntamiento que no estorbasen ni impidiesen el transito de los ganados y caballada de los vecinos de esta ciudad en razon de la jurisdiccion que hay en aquellos terrenos.

ANGELES, *M'zo* 20, *de* 1837.

Habiendose dado cuenta en el presente espediente al I. ayuntamiento, se aprobo en todas sus partes el articulo que proponé la concesion referente al terreno ql. solicita en posecion D'n Ant'o M'a Lugo, el ql. siendo ciud'no Mejicano, vindo y padre de familia, tiene ademas los bienes suficientes para mantener y poblar los terrenos que posée los cuales despues de su valdios no corresponden á propiedad de ningun individuo communidad ni particular alguno.

NARCISO BOTELLO.

Ass'a: JOSE SEPULVIDA.

SANTA BARBARA, *Sept.* 27, *de* 1838.

Vista la peticion con que da principio este espediente el informe el I. ayuntamiento de la ciudad Los Angeles, con todo lo demas ql. se tubo presente y ver convino de conformidad con leyes y reglamentos de la materia se declaro á Don Maria Lugo, dueño en propiedad del terreno conocido con el nombre de S'n Antonio, incluso las ampliaciones echas, segun cuesta por *por* los documentos ql. acompaña, y se demarcan en el diseno adjunto, en concepto de que quedará sugeto á pagar el senso annual ql. se le imponga por la parte ql. resultase pertenecer á los ejidos de la ciudad. Librese el despacho correspondiente, tomese razon en el libro ql. corresponde y dirijase este espediente á la ex'ma diputacion para su aprobacion, asi yo el C'o Juan Bautista Alvarado, gefe politico interino, lo mando, decreto y firmo.

ALVARADO.

S'TA BARBARA, *Sept'bre* 27, *de* 1838.

En la misma f'ha presente D'n Felipe Lugo, apoderado por su padre Don Antonio Lugo, se le hizo saber el decreto ql. antecede y dijo quedaba conforme y lo firmó.

FELIPE LUGO.

Angeles, Nov're 13, de 1838.

A judimento del interesado D'n Ant'o M'a Lugo, se le entrego en esta f'ha el espediente compuesto de seis fojas utiles incluso el diseño pa. hacer el uso correspon'to al solicitan la posecion del terreno ql. solicita.

ALVARADO.

Filed in office, Sept. 1st, 1852.

GEO. FISHER, *Sec'ry.*

B.—*Translation of Espediente.*

I, Guillermo Cota, say, that being commissioner in this city in the year 1810, I received orders from Señor Don José Arguello (at that time governor ad interim) to give possession of a land or place for raising large cattle, to Don Antonio Maria Lugo, and I did so in that called San Antonio; and going up the river San Gabriel, the boundary was taken at the sheep-pen, (corral de las borregas,) near the place named Jugave; thence towards this town as far as some sycamores, the only ones there are; and from these to the spring of the Arenal; thence to the front of the old corral boundary, with the river aforesaid; all this was with the understanding that he should not injure any individual of this city, and at the request of the person interested.

I give this in the city of Los Angeles, on the 18th of March, 1837.

(Signed) GUILLERMO COTA.

I, Guillermo Cota, say, that in the year 1827, I being alcalde of this city, by order of the señor commanding general, Don José Maria de Echandia, the place of San Antonio Maria Lugo was enlarged, and it was from the sycamores which he has for a boundary to the point of the "Nusa."

Angeles, March 18th, 1837.

(Signed) GUILLERMO COTA.

To the Most Illustrious Ayuntamiento:

Citizen Antonio Maria Lugo, a resident of this puebla, before your honor with due respect presents himself and states, that having now a great number of black cattle, and the land on which they are not being sufficient for their increase, he prays your honor will please extend it for him in the last, from the narrow outlet (redamader) of the alder tree valley (de los Alisos) to the main road, and to the plain of the river San Gabriel, which, to this extent, includes the commons of the pueblo; wherefore he prays your honorable body to have the goodness to grant him the favor which he solicits, protesting that it is not done with evil intent, and whatever else may be necessary, &c.; having the goodness to receive this on common paper, there being none of any stamp in the place.

Pueblo of Los Angeles, Sept. 6th, 1833.

(Signed) ANTONIO MARIA LUGO.

PUEBLO OF LOS ANGELES, *April 14th*, 1834.

In the session of the 17th of March, this illustrious ayuntamiento resolved that the land, which the party interested solicits, should be lent him, as he has some merits to have this favor granted to him, while the most excellent territorial deputation may determine what may be deemed proper relative to this sort of lands, as they belong to the commons of this pueblo; the grantee should be made to understand that he shall on no account consent the cattle and other property of the community of this place to be injured. The constitutional alcalde of said pueblo thus signed this with the respective secretary.

(Signed) JOSE PEREZ.
(Signed) VINCENTE MORAGA,
Secretary.

To his Excellency the Governor:

I, Antonio Maria Lugo, resident of this city, before your excellency's authority, in conformity with law, appear and say, that having a sufficient number of neat cattle and horses to stock the places which I have had provisionally granted to me, as appears by the three documents contained in the annexed espediente, I come to request your excellency to have the goodness to grant me the corresponding possession and documents which may serve me for a title. The lands which I possess, and of which I now ask the possession, are those shown by the map, which sheet forms the first leaf of this espediente referred to. I also hope that your excellency will have the goodness to excuse me for using common paper, there being none of the corresponding stamp.

Angeles, April 26th, 1837.
For my father, (Signed) FELIPE LUGO.

SANTA BARRARA, *May 9th*, 1837.

Let the illustrious ayuntamiento of the city of Los Angeles report whether the person interested in this petition possesses all the legal requisites to be attended to in his ; whether the land which he petitions for is vacant, and whether it can be granted in colonization, in conformity with the law; these reports being finished, it will return the espediente to the government for its decision.

(Signed) ALVARADO.

ANGELES, *May 20th*, 1837.

This espediente having been reported to the illustrious ayuntamiento of this city, in session of this day, it was resolved that it pass to the committee on vacant lands, that it may make the required report.

(Signed) JOSE SEPULVEDA,
President.
(Signed) NARCISO BOTELLA,
Secretary.

Very illustrious Ayuntamiento:

The committee charged with reporting upon the espediente which Don Antonio Maria Lugo makes relative to possession of land, has ex-

amined the points to which the request referred to it is confined, and in conclusion reports for the information of the ayuntamiento the following article, viz:

Don Antonio Maria Lugo is a Mexican citizen, a widower, and head of a family, with a sufficient number of cattle to stock the lands he occupies, which are irrigable, dependant on the seasons, and pasture lands, and are situated about a league and a half from this city, and (the committee) thinks there is no impediment to the possession asked for being granted to the petitioner.

(Signed) FRANCISCO PANTIFA,
(Signed) BASILIO VALDEZ.

Angeles, May 20th, 1837.

P. S.—The committee think that it is proper the persons interested in this petition should be notified by the ayuntamiento, that they cannot disturb or hinder the transit of the cattle and horses of the residents of this city, on account of the proximity of those lands.

(Rubric.)
(Rubric.)

ANGELES, *May 20th*, 1837.

The present espediente having been reported to the illustrious ayuntamiento, it approved it in all its parts. The article which the committee proposed, referring to the land solicited, in possession by Don Antonio Maria Lugo, who, being a Mexican citizen, a widower and the head of a family, has, moreover, sufficient cattle to keep and stock the lands which possesses, the which, beside being vacant, do not belong to any community or individual.

(Signed) JOSE SEPULVEDA,
President.
NARCISO BOTELLO,
Secretary.

SANTA BARBARA, *Sept. 27th*, 1838.

Having seen the petition with which this espediente commences, the report of the illustrious ayuntamiento of the city of Los Angeles, with all the rest which was represented and proper to be considered, in conformity with the laws and regulations on the matter, Don Antonio Maria Lugo is declared owner in fee of the land known by the name of San Antonio, including the extensions which have been granted, as shown by the documents which he transmits, and which are marked on the annexed map, with the understanding that he will remain, subject to pay such sum annually as may be imposed on him for that part which may result to pertain to the common lands of the city. Let the corresponding title be issued; let note be made in the corresponding book, and let this espediente be directed to the most excellent deputation for its approval.

Thus I, citizen Juan B. Alvarado, governor ad interim, ordered, decreed and signed.

(Signed) ALVARADO.

SANTA BARBARA, *Sept. 27th*, 1838.

On the same day, present Don Felipe Lugo, attorney in fact for his father, Don Antonio Maria, he was informed of the foregoing decree, and he said that he agreed to it and signed.

(Signed) FELIPE LUGO.

ANGELES, *November 13th*, 1838.

At the request of the person interested, Don Antonio Maria Lugo, the espediente was, on this date, delivered to him, composed of six written leaves, including the map, that he might make the proper use of it on soliciting the possession of the land he petitioned for.

(Signed) ALVARADO.

"Nuebe" and "vecino" erased.

I certify the foregoing to be a true and correct translation from the original Spanish document on file in this city, in case No. 308.

ANTONIO MARIA LUGO.
GEORGE FISHER, *Sec'y.*

Filed in office, August 31st, 1852.

GEORGE FISHER, *Secretary.*

Document No. 1.—*San Antonio.*

El Ciudadano Juan B. Alvarado, Gefe Politico Interino de la Alto California.

Por cuanto el ciudadano Ant'o Maria Lugo, ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de San Antonio, incluso las ampliaciones hechos, segun cuesta pa. las documentas ql. acompaño y se demarcaran en el diseño de su solicitud, practicadas previamente las diligencias y averiguaciones, segun lo dispuesto por leyes y reglamentos de la materia; usando de las facultades que me son conferidas á nombre de la nacion Mejicana, he vendo en concederle el terreno mencionado, declarandole la propiedad de el por las presentes letras entendiendose esta concesion con entera conformidad á las leyes, y á reserva de la aprobacion ó desapbrobacion de la ex'ma junta departamental, y bajo las condiciones siguientes:

[Seal. Place of the Eagle.]

1a. El agraciado ni sus herederos podran dividir ni enagenar el ql. se les adjudica imponer censo vinculo fianza, hipoteca ni otro gravamen, aunque sea pa. causa piadosa, ni pasarlo á manos muestos.

2a. Podra cercarlo, sin perjudicar las travesias, caminos y servidumbres, lo disfrutara libre y esclusivamente, dedicando lo al cultivo que mas le acomode.

3a. Solicitara el juez respectivo le de la posesion juridica en virtud de este despacho, por el cual se demarcaran los linderos y pondran sus mojoneras.

4a. El terreno de que se hace donacion es el que se espresa en esta solicitud del interesado, y se demarcará en el diseño, y el juez que lo posesione pasará aviso á este gobierno del numero de sitios que comprende.

5a. Que dara sugeto á pagar el senso annual ql. se le imponga por la parte ql. resultare pertenecer á los egidos de la ciudad.

En consecuencia mando que serviendo de titulo el presente, y teniendose por firme y valedero, se tome razon, en el libro q. corresponde, y se entregue al interesado por su resguardo y demas fines consernientes.

Dado en S'ta Barbara, á veinte y siete de Septiembre, de mil ochocientos treinta y ocho. JUAN B. ALVARADO.

DON ANTONIO MA. LUGO, *Pet.*

Filed in office, Oct. 13th, 1852.

GEO. FISHER, *Sec'y.*

Translation of Title.

Citizen Juan B. Alvarado, Political Chief ad interim of Upper California:

[Political Government of N. California.]

Whereas citizen Antonio Maria Lugo has, for his own personal benefit and that of his family, petitioned for the land known by the name of San Antonio, including the extension made, as appears by the documents which he transmitted, and as marked out on the map of his petition, the proper measures being previously taken as required by laws and regulations on the matter, using the powers which are conferred on me in the name of the Mexican nation, I have granted him the aforesaid land, declaring to him the ownership of it by these presents, said grant being understood to be in entire conformity with the laws, subject to the approval or disapproval of the most excellent departmental junta, and under the following conditions:

1st. Neither the grantee nor his heirs can divide nor alienate that which is granted to them, subject it to any tax, entail, pledge, mortgage or other incumbrance, even for pious purposes, or convey it in mortmain.

2d. He may enclose it without prejudice to the crossings, roads and servitudes; he will enjoy it freely and exclusively, making such use or cultivation of it as may suit him.

3d. He will request the proper magistrate to give him the juridical possession, in virtue of the patent, by whom the boundaries will be marked out, and he will place the bounds.

4th. The land of which donation is made, is that which is described in the petition of the person interested, and marked out on the map; the magistrate who may put him in possession will advise this government of the number of square leagues it contains.

5th. He will remain subject to pay the annual tax which may be imposed on him for the part which may prove to belong to the common lands of the city.

In consequence, I order that the present (document) serving him for a title, and being held as firm and valid, note be made of it in the corresponding book, and it be delivered to the person interested for his security and other convenient purposes.

Given in Santa Barbara, on the twenty-seventh of September, one thousand eight hundred and thirty-eight.

(Signed) JUAN B. ALVARADO.

I certify the foregoing to be a true and correct translation from the original Spanish document on file in this office, in case No. 308.

ANTONIO MARIA LUGO.
GEO. FISHER, *Secretary.*

Filed in office, October 15th, 1852.

GEO. FISHER, *Sec'y.*

A. M. 308.—Antonio Ma. Lugo—San Antonio.

Testimonio del Espediente de posecion dada en favor de Dn. Anto. Ma. Lugo, del sitio llamado Sn. Antonio, con sus ampliaciones contiguo a este ciudad.—Año de 1839.

En la ciudad de Los Angeles, del departamento de Californias, á las veinte y cinco dias del mes de Junio, de mil ochocientos treinta y nueve, anuente á la solicitud del ci'do Antonio Ma. Lugo, y orden del s'or prefecto interim de este distrito de esta fecha, á fin de que se le de la correspondiente posesion al espresado S'or Lugo, del sitio y rancho llamado "Sn. Antonio," q. tiene actualmente ocupado en sus bienes de campo y demas ampliaciones, consedido por el ex'mo s'or gobernador de este departamento, cuyo titulo ó despacho, espediente original y diseño ha presentado el interesado, á este juzgado parese por me y mis testigos de asistencia al espresado citio, y procedesa á da la posesion indicada, previa citacion de colindantes, arreglandose para ello al diseño y titulo referido qe. se letra conferido pr. el gobierno departmental, con f'ha veinte y siete de Setiembre, del año ppa.

El ciudadano Januario Abila, registre 2a del ill'tre ayuntamiento de este referida ciudad, y pregundo por ansencia del señor alcalde 1a, asi lo provez, mandé y firmé con los mencionados testigos de mi asistencia, en este papel comun pa. no haber del sellado respectivo, doy fée.

JANUARIO ABILA.

NARCISO BOTELLO, }
IGNACIO PALOMARES, } Ass'a.

En el mismo dia, mes y año, el juez en turne que subscribe pase oficio al s'or administrador de la mision de San Gabriel, á Don Manuel Dominguez, á Don Anastacio Abila, y á Don José Serrano, como colindantes, punto de San Antonio manifestan les el objeto áqe. mi dirijase al puerto de San Antonio, pues que iba á suedir lo y pones en posecion

de el á Don Antonio Maria Lugo, lo que pongo por diligencia ql. autoriso y firmo, con los testigos de mi asistencia, segun d'ro, doy fée.

JANUARIO ABILA.

NARCISO BOTELLO,
IGNACIO PALOMARES. } As'a.

En el rancho de San Antonio, á veinte y seis de mil ochocientos treinta y nueve, yo el propio juez para la practica de estas diligencias, nombre de officio los cordeleros que por no saber firmar se omitan sus nombres, á quienes les hice saber su nombramiento que acceptaron bajo de juramente ql. otorgaron ofriciendo desempeñor fielmente su encargo lo que autorizo y firmo, con los testigos de mi asistencia, segun derecho.

JANUARIO ABILA.

Ass'a: NARCISO BOTELLO,
Ass'a: IGNACIO PALOMARES.

En el mismo dia, mes, y año, estando en la orilla del pandra del rio de esta ciudad, y como dos cientos varas arriba de la casa en que habita Dn. José Maria Lugo, en el punto llamado la Meza, á efecto de verificar las remedidas y posecion ql. corresponde al Senor Don Antonio Ma. Lugo, del citio llamado San Antonio, previas todas los requisitos de ley, y estando ante mi los testigos de asistencia, y los oficiales cordeleros hice medir un cordel que contenia cien varas, y hacido á sus estremos unos sancos de madera, previa observacion y calculo con el diseño á la vista por mi disposecion, se tiro el cordel á la orilla de dicho paredon en el cual se fijo por mojonera una cabesa de rez, rumbo este catorce gradas el norte se midieron y contaron cuatro mil ochocientos varas, hasta el punto donde firman cruz los caminos de esta ciudad á San Gertrudes y de San Gabriel, al puerto de San Pedro, cuyo puerto se marco por mojonera, y en el que compareceron presentes los S'ors Don Juan Bandini, administrador de San Gabriel, y José Serrano, las que no habiendo manifestado escepciones ningunos que suspendieron las medidas, les dije que continuaba á ellos.

De alli se tiro la cuerda rumbo norte, treinta y dos gradas al este, y se medieron y contaron cinco mil doscientos varas, las que rèmataran entre las lomas y á la cabeza del aguage en donde hay unos sancitos de señalo por mohonera. En seguida tuando el cordel rumbo este veinte y ocho grados, al sur se medieron y contaron cinco mil doscientos varas, que remataban en el Rio de San Gabriel, y en el puerto donde actualmente tiene firmado en Jacal, Don Felipe Lugo el cual se marco por mojonero. De agui tomando no abajo, rumbo sur diez y ocho grados, al oeste se midieron y contaron quince mil varas, que remataron en sur sansal que se halla en la orilla del rio de San Gabriel, y trescientos varas mas abajo hasta el lindero del rancho de San Pedro, en cuyo palo se elevo un palo que se marco pa. mojonero y en donde comparecio Don Manuel Dominguez, colindante por aquella parte á San Pedro quien no puso obstaculo que entorpicieron las medidas. De alli se tiro la cuerda rumbo oeste, ocho gradas al norte, y pasando por al alizo grande que firma el lindero del rancho de San Pedro, en midieron y

contaron cinco mil varas las que remataron en la sanga de agua que firman tijera en la orilla del camino real de Los Angeles á San Pedro q. hace esquina segun el diseño, en cuyo puerto comparecio Señor Anastacio Abila, colindante por la parte de los cuervos quien aunque dijo, que el camino real referido es el lindero de su ranchito ó citio conocido provisionalmente, por no habiendo manifestado documentas ningunas que entorpicieron las medidas, por que digo ql. no tiena, se tiro la cuerda pr. sobre la sienega del otro lado del camino, rumbo norte diez y ocho grados al oeste, y se midieron y contaron nueve mil quinientos varas y remataron en el puerto llamado las viejas en donde se marco por mohonera con unas machetasas, un sanco que se halla á la orilla del camino real espresado. En seguida tirando lo cuerda rumbo norte diez grados al este pasando por el Aliso Grande que esta en el rio de este ciudad, se medieron y contaron tres mil quinientes varas, las ql. remataron en la misma orilla del paredon de donde comenzaron las remedidas y que hace esquina rumbo oeste, este, con lo que se concluyeron las medidas de este citio á satisfacion del interesado á quien le ordené pusiera los correspondientes mohoneras en las puertas donde corresponde y quedo entendido habiendo marcados aquillos, señal de posecion lo ql. pungo por diligencia y autorizo, y firmó con mis testigos de asistencia, segun derecho, doy fée.

JANUARIO ABILA.

As'a: Narciso Botello,
As'a: Ignacio Palomares.

Angeles, Junio veinte y siete, de mil ochocientos trienta y nueve.—De se le testimonio á la parte de las presentes diligencias en papel comun por no haber del sellado respectivo y parece, aviso al excelentisimo señor gobernador del departamento de la presenta posecion, conforme se previene en el titulo ó despacho de concesion presentado por el interesado.

JANUARIO ABILA.

Regidòr 2a de illt're ayuntamiento, fugiendo por ansencia del señor alcalde 1a, asi lo provez mande y firme por ante les de mi asistencia, segun d'ro.

JANUARIO ABILA.

Ass: Narciso Botello,
Ass: Ignacio Polomarez.

Nota.—En la misma f'ha se libro al interesado el testimonio que se previene en el anto anterior y para constancia lo rubrique.

(Rubrica.)

Concuerda con el espediente de posecion á que me remito que queda protocolado en el libro respectivo llevado en ambos juzgados en el presente año. Esta fielmente sacado y enumendado escrito en estas 8 fojas de papel comun, por no haber de sellado correspondiente, que au-

toriso y firmo los testigos de mi asistencia, á las viente y siete dias del mez de Junio, de mil ochocientos trienta y nueve. Tachado—ofrieceron norte—no vale.

En testimonio de verdad.

JANUARIO ABILA.

Ass'a: NARCISO BOTELLO,
Ass'a: IGN'O PALOMAREZ.

Filed in office, 1st Sept., 1852.

GEO. FISHER, *Sec'y*.

Translation of Juridical possession.

In the city of Los Angeles, in the department of California, on the 25th day of the month of June, 1839, in compliance with the request of citizen Antonio Maria Lugo, and the order of his honor the prefect ad interim of this date, to the end that the corresponding possession should be given to the aforesaid Señor Lugo of the place and rancho called San Antonio, which he actually occupies with his cattle; and other extensions granted by his excellency the governor of this department, the title or despatch of which original espediente and map, the person interested has presented to this court; I and my assisting witnesses will go to the aforesaid place and proceed to give the possession referred to, after summoning the colindantes, conforming to the map and title referred to, which have been conferred on him by the departmental government, with date Sept. 26 of last year.

Citizen Januario Avila, second register of the illustrious ayuntamiento of this said city, acting on account of the absence of his honor the first alcalde, thus provided, ordered and signed, with the aforesaid witnesses of my assistance, on this common paper for want of that of the proper stamp. I certify.

(Signed) JANUARIO AVILA.
(Signed) NARCISO BOTELLO,
(Signed) YGNACIO PALOMARES.

On the same day, month and year, I, the magistrate ad interim who subscribed, gave official notice to the señor administrator of the mission of San Gabriel, to Don Manuel Dominguez, to Don Anastasio Avila and to Don José Serrano, as colindantes, making known to them the object for which I was going to San Antonio—for I was going to remeasure it and put in possession Don Antonio Maria Lugo—the which I note officially, which I authenticate and sign with my assisting witnesses, according to law. I certify.

(Signed) JANUARIO AVILA.
(Signed) NARCISO BOTELLO,
(Signed) YGNACIO PALOMARES.

In the rancho of San Antonio, on the 26th day of June, 1839, I, the proper magistrate for the execution of these measures, appointed two rope-bearers, whose names are omitted because they do not know how

to sign, who were notified of their appointment, which they accepted under the oath they made, promising to discharge faithfully their office; the which I authenticate and sign with my assisting witnesses, according to law.

(Signed) JANUARIO AVILA.
(Signed) NARCISO BOTELLO,
(Signed) YGNACIO PALOMARES.

In the same day, month and year, being on the edge of the bluff of the river of this city, and two hundred varas above the house in which Don Maria Lugo lives, at the spot called the "Mesa," for the purpose of verifying the re-measurement and possession which correspond to Don Antonio Maria Lugo, of the place called San Antonio, all the requisites of the law being previously complied with, and being before me the witnesses of my assistance, and the rope-bearers, I caused to be measured a cordel which contained one hundred varas, and some stakes of wood tied to its extremities; after observation and calculation with the map before me, the cordel was drawn by my direction to the edge of the said bluff, in which a bullock's head was fixed as a bound, course east, fourteen degrees north, there were measured and counted four thousand eight hundred varas, to a place where a cross is formed by the roads from this city to Santa Gertrud, and from San Gabriel to the port of San Pedro, which point was marked as a bound, and at which there appeared present Juan Bandini, administrator of San Gabriel, and Don José Serrano, and they not having taken any exceptions which should suspend the measurements, I told them that I was going to continue them: Thence the cordel was drawn north, thirty-two degrees east, and there were measured and counted five thousand two hundred varas, which ended between the hills and at the head of the running water which is noted on the map; which spring of water, where there are some little willows, was designated as a bound. In continuation drawing the cord east, twenty-eight degrees south, there were measured and counted five thousand two hundred varas, which ended at the river San Gabriel, and at the point where Don Felipe Lugo has at this time a hut built, which was marked as a bound. Hence going down the river, south eighteen degrees west, there were measured and counted fifteen thousand varas, which ended at a willow thicket (sanzal) which is situated on the bank of the river San Gabriel, and three hundred varas lower down to the boundary of the rancho San Pedro, in which spot a stake was driven which was marked as a bound, and where appeared Don Manuel Dominguez, colindante for that part of San Pedro, who placed no obstacle to impede the measurements. Thence the cord was drawn west eight degrees north, and passing by the large sycamore which forms the boundary of the rancho San Pedro, there were measured and counted five thousand varas which ended at the ditch of water which formed a fork on the margin of the main road from Los Angeles to San Pedro, and makes an angle, (according to the map,) at which point appeared Señor Anastasio Avila,

colindante on the part of "Los Guerres," and although he said that the main road referred to is the boundary of his rancho or sitio, provisionally granted to him, yet as he showed no documents which could prevent the measurements, as he said he had none, the cord was drawn over the marsh on the other side of the road north, eighteen degrees west, and there were measured and counted nine thousand varas, which ended at the spot called (Las Viepas), where an alder tree (sanco) which is situated on the margin of the aforesaid road was marked as a bound, with several cuts with a hatchet; in continuation the cordel being drawn north ten degrees east, passing by the large sycamore which is on the river of this city, there were measured and counted three thousand five hundred varas, which ended at the same margin of the bluff where the remeasurements were commenced, and which makes an angle in direction west and east; with this the measurements of this place were concluded to the satisfaction of the persons interested, to whom I gave order that he should place the corresponding bounds in the place where they belong, and he understood it, having marked there in sign of possession; all which I authenticate and sign with my assisting witnesses, according to law. I certify.

(Signed) JANAURIO AVILA.

Assisting witnesses:
(Signed) NARCISO BOTELLO,
(Signed) YGNACIO PALOMARES.

ANGELES, *June 27th*, 1839.

Let there be given to the party a testimony of these records on common paper, there being none of the proper stamp, and let a report of the present possession be passed to his excellency, the governor of the department, as provided in the title or despatch of grant presented by the person interested. I, Januario Avila, second regidor of the illustrious ayuntamiento, and acting on account of the absence of his honor the first alcalde, thus provided, ordered, and signed, before those of my assistance, according to law.

(Signed) JANUARIO AVILA.

Assisting witnesses:
(Signed) NARCISO BOTELLO,
(Signed) YGNACIO PALOMARES.

NOTE.—On the same date the testimony directed in the foregoing order was issued to the party interested, and in testimony I sign it in rubric.

(Rubric.)

It agrees with the expediente of possession to which I refer, which remains on record in the respective book kept in both courts in the present year. It is faithfully copied and corrected, written on eight folios of common paper, for want of that of the proper stamp, which I

authenticate and sign with the witnesses of my assistance, on the twenty-seventh day of the month of June, eighteen hundred thirty-nine.

In testimony of truth.

(Signed) JANUARIO AVILA.

Assis't witnesses:

(Signed) NARCISO BOTELLO,

(Signed) YGNACIO PALOMARES.

I certify the foregoing to be a true and correct translation from the original Spanish document, marked A, and annexed to the deposition of Abel Stearns, of Sept. 1st, 1852, on file in the office in case No. 308, Antonio Maria Lugo, for the place San Antonio.

GEORGE FISHER, *Sec'y.*

Filed in office, August 31st, 1852.

GEORGE FISHER, *Sec'y.*

C.—San Antonio.—Review of Espediente.

Testimonio del Espediente de Don Antonio Ma. Lugo.—1839.

Muy Illt're Ayuntamiento:

El ciudadano Ant'o Ma. Lugo, vecino de este pueblo, ante V. S. con el respeto debido se presenta, y dice que teniendo ya un crecido numero de ganado mayor, y no siendo suficiente para la fomento de un terreno con que se halla pido á V. S. tenga à bien amplarle este, por el rumbo este, donde el redadinero de la Cañada de los Alisos, hasta el camino principal, y vega del rio del San Gabriel, lo que en esta estencion comprenda á los ejidos del pueblo. Por tanto, á V. S. suplica se sirva concederle la gracia ql. solicita protestando no su de malicia, y le necesario serviendose tambien reciber este en el papel comun por no haberlo en el lugar ninguno de sello.

Pueblo de Los Angeles, Septiembre seiz, de mil ochocientos treinta y tres.

ANTONIO MA. LUGO.

Pueblo de Los Angeles, Abril catorce, de mil ochocientos treinta y cuatro.—En sesion de diez y siete de Mayo, acede este illt're ayuntamiento el ql. se presentase al interesado el terreno que la pertenece algunas meritos para que le conceda esta gracia, intutanto la ex'ma deputacion territorial determina la conveniente sobre esta clase de terrenos por su perteneciento á los ejidos de este pueblo. Debe queda entendido el agraciado que por ningun motivo permitira el que se perjudican les bienes, y demas propiedades de communidad de este lugar el alcalde constitucional de este pueblo, asi lo firmo con el secretario respetivo.

JOSE PEREZ.

VICENTE MORAGA, *S'rio.*

Ex'mo S'or Gobernador:

Ant'o Ma. Lugo, vecino de esta ciudad, auto lo autoridad de V. E. conforme á d'ro comparezco, y digo que teniendo un numero concistante de ganado vacuno, y caballado suficiente para poblar los citios que provisionalmente tengo concedido como consta de las tres documentos que comprende el adjunto espediente, benga en suplicar á V. S. se digne darme la correspondiente posesion, y documento ql. me sirva de titulo les terrenos que poseo q. de los q. actualmente pido la posecion, y sin los que manifiesta el diceño que en camina conforme la foja primero del citado espediento, tambien espero que V. E. si digne dispensar mi el uso de papel comun por no habér del que corresponde.

Angeles, Abril veinte y sies, de mil ochocientos treinta y siete.
Por mi s'or padre, FELIPE LUGO.

C.—San Antonio.—Record of Espediente.

Santa Barbara, Mayo nueve de mil ochocientos treinta y siete.—Informe el illt're ayuntamiento de la ciudad de Los Angeles, si el interesado en esta instancia obtiene todos los requisitos legales por su atendido en su solicitud. Si el terreno que pretende es valdio y se pude adjudicarlo en colonizacion conforme á la ley. Evacuados estas informes volvera el espediente al gobierno para su resolucion.

ALVARADO.

Angeles, Mayo veinte, de mil ochocientos treinta y siete.—Dado cuenta al ill'tre ayuntamiento de esta ciudad en session de hoy con este espediente, acordo pasara á lo comicion de terrenos valdios para que prodezco el informe que le pude.

JOSE SEPULVIDA, *S'rio.*
NARCISO BOTELLO, *S'rio.*

Muy Ill'tre Ayuntamiento:

La comision encargada de abrio dictamen en el espediente que vega Don Antonio M. Lugo, sobre posecion de terrenos, ha examinado los puertos á que se contrae en conclusion que se le ha convenido, y por conclusion por el conocimiento del ayuntamiento el articulo siguiente: Don Antonio Ma. Lugo es ciudadano Mejicano carlos bienes suficientes para pablar los tienos que ocupa las cuales su de regadia temporal y abrevadero y se halla cituados como á legua y medio de esta ciudad, y considera que no hoy obstaculo ninguno para que se conceda al solicitanto la posecion que pretendo.

Angeles, Mayo veinte, de mil ochocientos treinta y siete.

FRANCISCO PAUTOJA,
BASILIO VALDEZ.

Otro si: La comision opina como conveniente que á los interesados en esta instancia, se les previen de se por el ayuntamiento que no esta-

ban ni empiden el transeto de los ganados y caballada de los vecinos de esta ciudad, en razon de la imediacion que hay ena quellos terrenos.

(Rubrico.)
(Rubrico.)

Angeles, Mayo veinte, de mil ochocientos treinta y siete.—Habiendose dado cuenta con el presente espediente al ill'tre ayuntamiento se aprobo en todos sus partes. El articulo que propose la comission referente al terreno que se solicita en posesion D'n Anto. Ma. Lugo, el que siendo ciudadano Mejicano, vindo y padre de familia, tiene ademas los bienes suficientes para mantener y poblar los terrenos que posee las cuales despues de ser valdios, no corresponden á propriedad de ninguna comunidad en particular alguna.

JOSE SEPULVIDA.
NARCISO BOTELLO, *S'rio.*

S'ta Barbara, Septiembre veinte y siete, de mil ochocientos treinta y ocho.—Vista la peticion con que da principio este espediente el informe el ill'tre ayuntamiento de la ciudad de Los Angeles, con todo lo demas que se tubo presente y ver convino de conformidad con las leyes y reglamentos de la materia, se declaro á Don Antonio Ma. Lugo, dueño en propiedad del terreno conocido con el nombre de San Antonio incluso las ampliaciones hechos segun consta por los documentos que aceptaban y se demarcaran en el diseno adjunta; en concepta de que quedará sujeto á pagar la suma anual que se le imponga por su parte que resultase pertenecer á ejidos de la ciudad, librese el despacho correspondiente tomese razon en el libro que corresponde y dirigase este espediente á la ex'ma deputacion departamental para su aprobacion. Asi yo el ciudadano Juan B. Alvarado, decreto y firmo.

ALVARADO.

S'ta Barbara, Septiembre veinte y siete, de mil ochocientos trienta y ocho.—En la misma f'ha presente Don Felipe Lugo apoderado por su padre Don Antonio Maria se les hiso saber el decrete que antecede, y dijo que quedaba conforme y lo firmo.

FELIPE LUGO.

Angeles, Noviembre trece, de mil ochocientos treinta y ocho.—Alpedimento al interesado Don Antonio Ma. Lugo, se le entregue con esta f'ha el espediente compuesto de ser fojas utiles incluso el diseño para hacer el uno correspondiente al solicitar la posecion del terreno que solicita.

ALVARADO.

Tachandeo—vecino—no vale.

Concuerda con los documentos originales que se recibiere constantes en el espediente relativo, que existe en poder de Don Maria Lugo. Esta fielmente sacado y encadado existe en escrito de papel comun por

no haber del sellado respectivo; q. autoriso q. firmo con su y mi testigos de asistencia su la ciudad de Los Angeles, à once de Septiembre, de mil ochocientos treinta y nueve, doy fée.

En testimonio de verstad.

ANTONIO MA. LUGO.

As'a: NARCISO BOTELLO,
As'a: JUANNIA ABILA.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office, and under my custody, a portion of the archives of the former Spanish and Mexican territory, in department of Upper California, do hereby certify that the eight preceding and hereunto annexed pages of *pages*, numbered *numbered* from one to eight inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents on file, and *following* part of the said archives *archives* in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office,) at the city of San Francisco, Cal., the 11th day of June, 1852.

SAM'L D. KING,
Surveyor Gen'l, Cal'a.

Filed in office, August 31st, 1852.

GEO. FISHER, *Sec'y.*

This is a copy of a document annexed to the deposition of Abel Stearns, before H. Hall, commissioner, Sept. 1st, 1852, marked B, not to be—

GEO. FISHER, *Sec'y.*

Antonio Maria Lugo—San Antonio—Espediente C.

Opinion and decree.

U. S. Land Commissioners for California, session at San Francisco.

ANTONIO MA. LUGO
vs.
THE UNITED STATES. } No. 308—"San Antonio."

The claim presented in this case would seem to rest as well upon ancient grants and assurances made prior to the establishment of the independence of Mexico, as upon a grant by Alvarado, the governor of California, made in the year 1837. From the most careful examination, however, which I can make of the various muniments of title introduced, I am brought to the conclusion, that the only basis upon which a confirmation of the claim can be sustained, is the proceedings had under and in virtue of the decree of the 18th of August, 1824, and of

the ordinance of the 21st of November, 1828, of the Mexican government, which resulted in a grant made to the claimant on the 27th of September, 1838. The claimant, on the 26th of April, 1837, presented to the governor his petition, in which he sets forth three documents pertaining to the land for which he solicited a title; the first of these documents is a declaration of Guillermo Cota, made at the request of the claimant on the 18th of March, 1837, who states, that as commissioner of the city of Los Angeles, in the year 1810, he received order from Don José Arguella, then governor of the province, to give possession of a place for raising large cattle to the claimant, and that he did so in the place called San Antonio; he proceeds to state the boundaries of the place which he so put the claimant in possession, all which he says was with the understanding that he should not injure any individual of the city. The second document thus referred to in the petition to the governor of the same date, and made by the same person as the first, declares thus: I, Guillermo Cota, say, that in the year 1827, being alcalde of this city, by the order of the señor commanding general, Don José Maria Echandria, the place of Don Antonio Maria Lugo was enlarged, and it was from the sycamores which he has for a boundary to the point of the "Misa." The third document relied upon in the said petition, consists of a solicitation by the claimant, dated Sept. 6th, 1833, addressed to the ayuntamiento of the pueblo of Los Angelos, for a portion of the common lands of that pueblo, stating that the place on which he is settled was not sufficient for the increase of his large stock of cattle, &c., and the decree of that body, in a response to his solicitation, by which, for the reasons assigned, they resolved to lend to him the land asked, declaring it at the same time to be the common lands of the city, &c.

Those documents do not amount to satisfactory evidence of a grant of the full property, nor even of an inceptive title, afterwards to be extended into a perfect conveyance of any portion of the land described in them; they rather imply a tenancy at will or a permissive occupancy, than a grant of the full and perfect property. That portion, avowed to have been the common lands of the pueblo, is expressly declared to have been only loaned to the claimant; there is, in addition to those documents now introduced before this board, a petition of the claimant preferred on the 21st of March, 1823, in remonstrance against an aggressive resolution of the ayuntamiento of Los Angeles to eject him from his possession, and an order of Governor Arguello, to whom it was presented, which also fail to satisfy my mind of the existence of any grant prior to that time of the full property to the claimant; this last petition to Arguello alleges only a grant of the possession of a small place in the neighborhood of the pueblo of his residence, and the order of the governor sustains that possession as legitimate, concluding with an injunction upon the authorities of the pueblo not to take a similar course in other like cases without his knowledge. The claimant, on the 26th of April, 1837, filed a petition to the governor, in which he states, "that having a sufficiency of cattle and horses to

stock the places which I have had provisionally granted to me, as appears by the three documents contained in the annexed espediente, I come to request your excellency to have the goodness to grant me the corresponding possession and documents which may serve for a title.

It seems to my mind, in the absence of the decrees themselves, and of any special evidence of their contents, that is of the decree of Dario Arguello, in virtue of which Cota states he put the claimant in possession, and of Echandria, in augmentation of that possession, and from the statement of the claimant, as the nature of his right in his petition to Alvarado, that there was only a legitimate possession under a grant or decree of the right to occupy the premises anterior to the grant by Alvarado in the year 1837. In the Spanish the doctrine is: pocedor se apove a proprietario, and vice versa. (See Escriche Titles, poscedor and possession.) The genuineness of that grant and the authority to make it are not controverted; the long possession of the land granted in this case, by well defined lines and boundaries, its occupation and residence upon it in building erected by the claimant, all, for years anterior to the grant, are fully established by regularly authenticated transcripts from the archives of the former governments of the country, by documentary and other evidence on file in the case.

The conclusion that the claimant in this case rests upon the grant of Alvarado, and, of course, that it must be in accordance with the decree and ordinance of the Mexican government above cited, makes it necessary to advert to the fact of its quantity, since neither the grant, nor perhaps anything else in the espediente, ascertains explicitly the number of square leagues which were intended to be granted, and especially since, by that decree and ordinance, the maximum of eleven square leagues, and the minimum of two hundred varas square, are fixed in every grant of the public domain, to be made after that enactment, and cannot be legally departed from. This decree and ordinance do not require that the granting officer should specify the quantity, but only, that no more nor less than they authorize shall be granted to one individual. The grant in this case is one by metes and bounds, designating no specific quantity, and there is no alternative left for this board, but to declare it void for that omission, which would be a most harsh construction, or to confirm it in such a manner ("ut res magis valeat quam pereat") that the grant shall not fail, nor yet the law be violated. We must presume, that the governor neither intended to do a vain and idle thing, nor to violate the law, by granting more than that law would allow; to carry out those fair presumptions, we ought to confirm the claim, if it be otherwise unexceptionable, and at the same time guard that confirmation by such restrictive provisos and qualifications as to prevent any infraction of the law of quantity.

In this case, in one of the clauses of the conditions subsequent, attached to the grant, a requirement is made of the officer who shall measure the land, that he report to the government the number of square leagues that the grant contains. This officer did make an

elaborate measurement, which it would seem has ever since been recognised in the country; and the presumption is, that he reported it to the government; at all events, whether he did so or not, his failure, without any act done under the former government, to manifest any dissatisfaction with the grant as made, would not, I humbly conceive, work a forfeiture of the right of the grantee; the objection that the land lies within the ten littoral leagues, and all other objections not disposed of in this opinion, have already been considered and overruled by this board, in the case of Cruz Cervantes and others heretofore decided, according to the principles of decision prescribed for us in the 11th section of the act of the 3d of March, 1851; we think the claim is valid, and we now proceed to enter a decree of final confirmation. Commissioner Hall concurs in the result.

HARRY J. THORNTON.

This board, upon full consideration of the various grounds affecting the validity of the said claim, having come to the conclusion that the same is valid, therefore now proceeds to make, and does hereby make the following decree or report of final confirmation, viz: It is decreed that the said claim be confirmed to the claimant, to the extent of the metes and bounds described in the grant, and in the map and espediente to which the grant refers; provided, nevertheless, that there be no more than eleven square leagues in the said bounds, then we hereby confirm to him only eleven square leagues thereof within the said bounds, and no more; and provided further, that if there be less than eleven square leagues within the said bounds, then we confirm to him that said less quantity: being of the said land, in whole or in part, as the case may be, described in the grant of the claimant in this behalf, in the map and espediente referred to in the said grant, and of which the said claimant has been long possessed.

Given under our hands, this 21st of February, 1853.

HILAND HALL,
HARRY J. THORNTON,
Commissioners.

Filed in office, February 21st, 1853.

GEO. FISHER, *Sec'y.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing fifty-four pages, numbered from 1 to 54, both inclusive, to contain a true, correct and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office in case No. 308 on the docket of

the said board, wherein Antonio Maria Lugo is the claimant against the United States, for the place known by the name of "San Antonio."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, [G. F.] California, this twenty-first day of June, A. D. 1854, and of the independence of the United States of America the seventy-eighth.

(Signed) GEO. FISHER, *Sec'y*.

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the foregoing fifty-five pages, numbered from 1 to 55, both inclusive, contain a full, true and correct copy of transcript No. 9, filed in this office, wherein Antonio Ma. Lugo is appellee, and the United States are appellants, for "San Antonio."

In testimony whereof, I have hereunto set my hand and af- [SEAL.] fixed the seal of said court, at Los Angeles, California, this 28th day of April, A. D. 1856.

C. E. CARR, *Cl'k*,
By O. MORGAN, *Dep'y*.

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

Be it remembered, that on the 27th day of June, A. D. 1854, in the district court of the United States for the southern district of California, the following proceedings were had, to wit: a duly certified transcript of the record of the proceedings and decision of the United States board of land commissioners to ascertain and settle the private land claims in the State of California, and of the documentary evidence and testimony of witnesses upon which said decision was founded, in the case wherein Antonio Maria Lugo is the claimant against the United States, for the place called "San Antonio," was received, and filed, and docketed with No. 9 on the docket of said court, and is the words and figures following:

(Vide page 1.)

LOS ANGELES, *Nov. 7th*, 1854.

In same case, notice of intention to prosecute appeal in the district court was filed.

(Vide page .)

LOS ANGELES, *Dec. 4th*, 1854.

In same case, petition for review was filed.

(Vide page .)

Los Angeles, *Jan'y* 31*st*, 1855.

In same case, answer of appellee was filed.

(Vide page .)

Los Angeles, *April* 12, 1856.

In same case, leave granted by the court to take further testimony filed.

(Vide page .)

Los Angeles, *Sept.* 13, 1855.

In same case, map, &c., offered in evidence and filed.

(Vide page .)

Los Angeles.

In same case, on trial of same, the depositions of José Antonio Carrillo, Abel Stearns, Agustin Machado, Wm. G. Dryden and Felipe Lugo, taken in open court and filed.

(Vide page .)

Los Angeles, *March 7th*, 1856.

In same case, decree of confirmation was filed.

(Vide page .)

In same case, ordered by the court that an appeal be granted the United States to the Supreme Court of the United States.

(Vide page .)

Notice of Appeal by Attorney General.

Office of the Attorney General of the United States,
Washington, 11*th September*, 1854.

Antonio Maria Lugo
vs.
The United States.

You will please take notice, that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 10th day of June, 1854, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

(Signed) C. CUSHING,
Attorney General.

Filed Nov. 7th, 1854.
(Signed) C. E. CARR, *Cl'k.*

In the District Court of the United States for the southern district of California.—Los Angeles county.

ANTONIO MA. LUGO vs. THE UNITED STATES. } No. 308.

To the honorable Isaac S. K. Ogier, Judge of the District Court of the United States for the southern district of California:

The petition of Pacificus Ord, (of Monterey county,) attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present there in court in his own proper person, in the name and behalf of the United States, represents as follows:

That heretofore, to wit, on or about the 31st of August, A. D. 1852, Antonio Maria Lugo presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, representing that in the year 1810 José Arguello, governor of California, by virtue of authority in him vested, granted to him a certain tract of land called San Antonio, in the now county of Los Angeles; that in the same year he was duly put in possession of the said land by the commissioner of Los Angeles, by direction of the aforesaid governor; that in the year 1823 the title given to him by Governor José Arguello was submitted to the then governor and commandant, Don Luis Arguello, and by him recognised and confirmed, dated April 1st, 1823; that in the year 1827 José Maria de Echeandia, governor of California, granted an extension of said rancho of San Antonio; that the aforesaid title being subsequently lost, in 1837 he applied to the then governor of California for a formal title to the lands which he then possessed, and certain extensions described and marked out in the map accompanying said petition; that on the 27th of September, 1838, Juan B. Alvarado, governor of California, by virtue of authority in him vested, granted said land, with the limits and boundaries marked out in said map; that in the month of June, 1839, the judicial possession of said land was duly given, and the lands duly surveyed, according to the usage and custom of the country, and the boundaries marked out by the proper authority; that he has some 42 years in the quiet and peaceful possession and occupation of said tract of land. And praying the said commissioners to confirm to him the said tract of land, as described in the grant and map, and marked out in the juridical survey and possession.

Your petitioner further represents, that thereafter, to wit, on the 21st of February, A. D. 1853, the said commissioners confirmed, by final decree, the said claim of said Antonio Maria Lugo, to the extent of the metes and bounds described in the grant, and in the map and espediente to which the grant refers, (not exceeding in quantity eleven square leagues.)

That thereafter, to wit, on the 27th of June, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers

and evidence on which it was founded, in said cause, was filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 308, reference to which it is prayed may be had and made a part of this petition.

That on the 10th of June, A. D. 1854, the Hon. Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of said final decree and proceedings of said commissioners in said cause, (No. 308,) and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 7th of November, 1854, the said Attorney General of the United States filed, or caused to be filed in behalf of the United States, a notice in writing with the said clerk of said district court for the southern district of California, that the appeal in said cause of Antonio Ma. Lugo vs. The United States, from the decision of the said commissioners to ascertain and settle the private land claims in the State of California, in the district court of the United States for the southern district of California, would be prosecuted by the United States.

Your petitioner further represents, that the said land claimed as aforesaid is within the jurisdiction of this honorable court.

And your petitioner further represents and alleges, that the said claim of said Antonio Maria Lugo for said land claimed, and confirmed by said commissioners as aforesaid, is invalid, and said decree of confirmation erroneous on the following grounds:

1. That the said Antonio Maria Lugo shows no valid title to the said land claimed by him as aforesaid, and it is denied that he has any.

2. That the said land, claimed as aforesaid, is within ten leagues of the sea-coast, and was not therefore subject to colonization or grant by the said governor of California, without the previous authority of the supreme government.

3. That at the dates of the said alleged grants, the said land, or a part thereof claimed as aforesaid, was occupied by the missions, and particularly the mission of San Gabriel.

4. That at the date of the said alleged grants, the said land claimed as aforesaid, or a part thereof, was in the occupation or use of the citizens of the pueblo of Los Angeles, and were the common lands (ejidos) of said pueblo, and therefore not subject to grant by said governor of California as alleged.

5. That the alleged grants and titles previous to the alleged grant of Governor Alvarado of September 27th, 1838, were temporary permits to occupy an undescribed small tract of land; that these were given without authority of law; that they *no* designate no specific tract of land, with quantity or boundaries, and are therefore void for uncertainty.

6th. That the said alleged grant of Governor Alvarado of said date is not in entire conformity with the law of the 18th of August, 1824, and the regulations of the 21st of November, 1828; and the claimant has not complied with the requirements of said law and regulations.

7. That the said alleged grant of said Governor Alvarado has not the signature of the secretary, and it was not a grant until it had his signature with that of the said governor; that it is not upon such sealed paper as the law required; that said Alvarado had no authority to issue and deliver to said claimant such an incomplete document; that the boundaries called for in said grant of said Alvarado are vague and indefinite; that it is not in full ownership, being made subject to the payment of a tax (annual) which might be imposed by the pueblo of Los Angeles; that the alleged map, purporting to be the original map of the land granted by Alvarado and belonging to the alleged petition of claimant, (by his son Felipe,) dated April 26th, 1837, and asking the governor for the land now claimed, is not proved to be such; that there is no evidence that is the original map belonging to the original espediente; that there is no evidence that the said original map is lost, and that the one shown is an accurate and correct copy of the original; and the genuineness and authenticity of said map shown by claimant is denied.

8. That the said alleged grant of Governor Alvarado was made subject to the approval of the territorial junta or deputation, which it does not appear was ever had, and it is denied that such approval was ever given.

9. That the said alleged act of survey and juridical possession was not made according to the terms of said grant or according to the law; that it was not made by a judge having the authority or jurisdiction to act in such cases. That there is no evidence that Januario Abila was regidor and acting alcalde of Los Angeles at the date of the alleged juridical possession and survey; and it is denied that he was such regidor and acting alcalde, and that he had jurisdiction over the subject-matter of juridical surveys and possessions of lands in and about the pueblo of Los Angeles. And that there is no evidence that the land claimed as aforesaid was duly surveyed according to the usage and custom of the country as alleged; and it is denied that it was surveyed according to the custom and usage of the country.

10. That the said alleged survey and juridical possession is vague and indefinite, that the boundaries therein mentioned are uncertain, and that there is no quantity of land or number of leagues specified, nor was there any report made to the said Governor Alvarado or his successors in office of the number of leagues contained in said alleged survey and possession.

Wherefore, the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises and the laws and statutes in such case made and provided, prays that the said Antonio Maria Lugo or his attorney may be served with a copy of this petition, and that this honorable court will review the said decision or final decree of confirmation of said commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of said Antonio Maria Lugo for said land, claimed and confirmed as afore-

said, and that the same may be decreed invalid; and all such other orders, judgments, or decrees, as may be just, with costs and general relief.

(Signed) P. ORD,
Attorney of the United States for the southern district of California.

Filed Dec. 4th, 1854.
(Signed) C. E. CARR, *Cl'k.*

In the District Court of the United States for the southern district of California.

UNITED STATES
vs.
ANTONIO MARIA LUGO.

To the Hon. Isaac S. K. Ogier, judge of said court:

The answer of Antonio Maria Lugo, a citizen of the United States, and resident of said State, to the petition of review filed by the above entitled plaintiff against him, praying that a certain final decree of confirmation entered in his favor by the commissioners appointed to ascertain and settle the private land claims of California, in a certain claim for a tract of land called "San Antonio," respectfully showeth: That this defendant admits that he did present his petition to the said commissioners for the tract of land described in said petition, and that the said commissioners did enter a final decree of confirmation in his behalf for the said tract of land.

And this defendant further answering, saith, that he claims the said tract of land called "San Antonio," with the metes and bounds referred to in the said transcript, filed 27th June, 1854, hereunto referred and made a part of this petition; that he claims the same in virtue of grants thereof made to him, as set out in his petition presented to said commissioners, filed in the office of the secretary of the board of said commissioners, on the 31st August, 1852, as appears in said transcript hereunto referred and made a part of this answer, and more particularly in virtue of a grant in fee thereof made to him by Juan B. Alvarado, governor of California, by virtue of authority in him vested by law under date of 27th September, 1838, and that the metes and bounds of said claim are accurately defined in the map and judicial survey and possession thereof, both of which appear in said transcript hereunto specially referred and made part of this answer.

And this defendant further answering, says, that he has faithfully discharged all the conditions imposed on him by said grant.

And this defendant further answering, saith, that his said claim is valid as appears by the said transcript and the decree of the said commissioners, and as will be made to appear by such further proof as may be taken by order of your honor, and that the final decree of said commissioners is valid, according to the laws, customs, and usages of Spain and Mexico, as they existed in California, and according to the treaty

of Guadalupe Hidalgo, the law of nations, the principles of equity, and the decisions of the Supreme Court of the United States, as far as they are applicable.

And this defendant further answering, denies all the allegations contained in said petition, particularly and especially, excepting such as are admitted in this answer.

And further, this defendant avers that there exists no cause, by reason of anything alleged in said petition, why said final decree should be declared invalid.

Wherefore the defendant prays, that your honor do declare that the said final decree of the said commissioners, as well as the claim and title of this defendant to the said land, is valid; that the petition of the United States be denied; and for general relief and costs.

(Signed) J. LANCASTER BRENT,
Of Counsel for Defendant.

Filed Jan'y 31st, 1855.
(Signed) C. E. CARR, *Cl'k.*

In the U. S. District Court for the southern district of California.

UNITED STATES vs. A. M. LUGO. } No. 9.

And now comes defendant, and moves this hon. court for an order to take further evidence.

(Signed) J. LANCASTER BRENT,
Att'y for Def't.

Filed April 12th, 1855.
(Signed) C. E. CARR, *Cl'k.*

OFFICE OF THE BOARD OF COMMISSIONERS, &c., &c.
SAN FRANCISCO, *July 3d*, 1855.

ANTONIO MA. LUGO vs. THE UNITED STATES. } No. 308.

For the place named "San Antonio."

In this case the counsel for the claimant filed the following motion and affidavit, to wit:

Motion.

ANTONIO MA. LUGO vs. THE UNITED STATES. } No. 308.

For a place called "San Antonio."

And now comes the claimant herein, and moves for permission to

withdraw from the office of the secretary a certain map, by him herein filed as a part of the evidence in said cause.

(Signed) J. LANCASTER BRENT,
Att'y for ANTONIO MARIA LUGO.

Affidavit.

STATE OF CALIFORNIA,
County of San Francisco.

J. L. Brent, being duly sworn, deposes and says, that the above-entitled cause has been appealed by the United States, and is now pending and being prosecuted by the United States in the U. S. district court for the southern district of California, and that is of counsel for the claimant, Antonio Maria Lugo; that the United States have taken objections to the identity of the map filed in the above cause; and therefore affiant saith, that, in his judgment, it will be material for the said Lugo to have in his possession the said map, in the foregoing motion mentioned.

(Signed) J. LANCASTER BRENT.

Sworn to and subscribed before me, this 3d July, 1855.

(Signed) R. AUG. THOMPSON, *Com'r.*

Which motion was granted.

[*For map see original, page* 62.]

B.—No. 308—*Antonio Ma. Lugo—San Antonio.*

Document annexed to the deposition of Abel Stearns, taken before Com'r H. Hall.

Recorded in record of evidence, vol. 6, pages 332 to *to* 335.

Filed in office, Sept. 1st, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Offered in evidence in this case, this 13th Sept., 1855.

(Signed) C. E. CARR, *Cl'k,*
By J. W. ROSS, *Dep'y.*

Order.

Whereupon it is ordered, that the claimant be permitted to withdraw temporarily the map described in the motion, by leaving a certified copy of the same in the archives of this board, and that the secretary of this board enclose the original map to the clerk of the U. S. district court

for the southern district of California, at Los Angeles, with instructions to return the same to the archives of this board as soon as possible, after the adjudication of the case, pending in the said court in which the map is intended to be used.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in California, do hereby certify the foregoing to be a true, full and correct copy of the record of the proceedings had in this case, on Tuesday, July 3d, 1855, and the map hereunto annexed to be the original map cited in the said motion and affidavit.

In testimony whereof, I have hereunto subscribed my name officially and affixed my private seal, (not having a seal of office,) at San Francisco, this 17th July, A. D. 1855.

(Signed) GEO. FISHER.

Offered in evidence in this cause, this 13th day of Sept., 1855.

(Signed) C. E. CARR, *Cl'k*,
By J. W. ROSS, *Dep.*

Deposition of José Antonio Carrillo.

Examination of José Antonio Carrillo, who being duly sworn on his oath testifies, in answer to questions put by the United States district attorney, on the part of the United States, said examination being conducted in open court:

Ques. 1. What is your name and age?

Ans. My name is José Antonio Carrillo, and I am fifty-nine years old.

Ques. 2. How long have you resided in California, and where was you born?

Ans. I have resided in California all my life, (having been born in San Francisco,) with the exception of occasional visits to Mexico.

Ques. 3. How long have you resided in Los Angeles?

Ans. About thirty-five years.

Ques. 4. Do you know the boundaries of the pueblo of Los Angeles, previous to the 27th of September, A. D. 1838? (Objected to by counsel for complainant.)

Ans. The boundaries up to the year 1834 I can give some account of, or approximating thereto. The boundaries commencing by the River Los Angeles and running down to a large Aliso, the boundary of the rancho of Dominguez, called San Pedro; and from thence in a direct line to the salinas or ocean, in a westerly direction, running thence by the sea to the rancho of San Vicento or Sepulvidas, and from thence running easterly by the mountains to Cahuenga, and from thence to the head of the sanga of the pueblo, the place of beginning.

Ques. 5. Do you know how long those limits, just described by you, were known and recognised by the authorities of the city and by the people of Los Angeles, as the limits of the city of Los Angeles?

Ans. I do not know how long they have been recognised by said city and people, but such were the limits acknowledged by the authorities of the city and the people, when I first came here, in 1820.

Ques. 6. Do you know about what time the pueblo of Los Angeles was first founded?

Ans. In the year 1781; I know that was the date from the archives of the pueblo.

Ques. 7. Do you know the number of the population of Los Angeles in 1820?

Ans. I do not know.

Ques. 8. Were the limits and bounds of the pueblo lands, as claimed by the pueblo and recognised by the people, the same about the 27th Sept., '38, as they were in 1834?

Ans. I don't know; I know nothing about the boundaries since 1838.

Cross-examination by J. L. Brent, for Claimant.

Ques. 1. How many leagues of land are in the limits you have just described?

Ans. I do not know.

Ques. 2. Do you think there is more than thirty?

Ans. I do not know.

Examination of Abel Stearns by U. S. Att'y, in behalf of the U. S.

Ques. How old are you, what is your name, and how long have you resided in Los Angeles?

Ans. My name is Abel Stearns; I am fifty-seven years old, and have resided in Los Angeles twenty-four years.

Ques. Do you know the limits of the common lands of the pueblo of Los Angeles, as claimed by the pueblo and recognised by the people; if yea, state generally all you know about these limits and your means of knowledge previous to the year 1839. (Question objected to by counsel for claimant.)

Ans. The only direct knowledge that I have of the pueblo lands was about the year 1838 or 1839. There was a commission appointed by the ayuntamiento, composed of Antonio Ma. Lugo, and Antonio Ygnacio Abila, and some other citizen that I now do not recollect, with which commission I was requested to accompany, and that the commission would point out to me the former boundaries of Los Angeles, that I might draw a diagram of the lands. This commission took me to a place, the Rosa de Castillo, stating that that was the boundary line in that direction of Los Angeles, from thence running to the road leading from San Gabriel to San Fernando; thence following that road to Cahuenga, and from thence by the mountain in a southwesterly course to the beach at the rancho of San Vicente, following the beach south to the salinas on the boundary lands of Dominguez; following the boundary of Dominguez to the River San Gabriel; following up the river to the hills, and from thence taking a westerly

course to the place of beginning. The commission informed me that this was the original boundary of lands claimed by the pueblo. It was stated to me by the alcalde that they required a diagram of the lands for the purpose of conforming to an order of the governor, that the pueblo should define their limits further; that they wanted the plan before them for the purpose of designating what they might determine as the limits of the pueblo.

Ques. Have you heard the evidence of José Antonio Carrillo in this case?

Ans. I have.

Ques. Do you know the locality and limits of the land claimed by Lugo in this case?

Ans. I do.

Ques. Do you know whether or not the land claimed by Lugo is embraced within the limits of the land claimed by the pueblo of Los Angeles, as described by José Antonio Carrillo in his evidence, which you have heard?

Ans. A small part of the rancho claimed by Lugo lies within the limits described by Carrillo, to wit, all that part which lies west of Los Angeles river and north of Dominguez boundary line, as described by Carrillo.

Ques. Can you state what quantity of the land claimed by Lugo is irrigable?

Ans. I do not know.

Cross-examined by Brent, counsel for .

Ques. What number of leagues are within the limits of the land described by you, as forming the common lands of the pueblo?

Ans. I should think there was thirty square leagues within said limits.

Ques. What proportion of these lands have been granted to private individuals by the Mexican government?

Ans. Rancho of Lugo, Anastacio Abila, A. Ygnacio Abila, Machado and Telemantes, Francisco Sepulvida, Alanis, Sanchez, Januario Abila, Felis Ranch, Aguilar Ybarra, which includes the large *propor* of these lands.

Ques. Look upon this document, (being entitled map of land occupied by the citizen Antonio Maria Lugo, and endorsed B, No. 308, Antonio Maria Lugo, San Antonio, document annexed to the deposition of Abel Stearns, taken before Com'r H. Hall, filed in office, Sept. 1st, 1852, Geo. Fisher, sec'ty; recorded in record of evidence, volume 6, pages 332 to 335,) and say who made said document, and when it was made, to the best of your knowledge, and for what purpose?

Ans. This map or diagram was made by me, to the best of my knowledge, sometime in the year '37 or '38; it was represented to me that he wanted it for the purpose of obtain a title to the lands described in the bounds of said map.

Ques. Did you ever make any other map of said lands?
Ans. Not that I recollect of.

Testimony of Agustin Machado.

Ques. What is your name, age, and place of residence?
Ans. My name is Agustin Machado; I am about fifty-four years of age, and reside in Los Angeles.
Ques. Are you acquainted with Antonio Maria Lugo; and if so, how long have you known him, and where has he been living?
Ans. I know him; I knew him first as a soldier of the king, at Santa Barbara, when I was quite small.
Ques. When did Lugo first settle on the ranch where he now lives, and how has he occupied it?
Ans. I do not recollect exactly when he settled on the ranch; it was many years ago; when I was a small boy. I do not recollect dates. He had his family on it; he occupied it with cattle, and by cultivating it down to the present time.

Testimony of Wm. G. Dryden.

No. 9.

Wm. G. Dryden, a witness for appellee, sworn, and says:

1 ques. What is your name, age, and place of residence?
Ans. My name is William G. Dryden; my age 47, and residence in the city of Los Angeles.
2 ques. Are you acquainted with Antonio Maria Lugo? If so, state his age and his ability to attend to business.
Ans. I am acquainted with Antonio Maria Lugo; he is a very old man, between 85 and 87; he is illiterate, and does not read or write. I consider his mind as feeble.
3 ques. Are you acquainted with the boundaries of the city of Los Angeles; if so, state your means of knowledge, and whether any portion of the Lugo rancho is within said limits?
Ans. I was clerk of the common council near five years; was the way I obtained information about them. I do not think the Lugo rancho lies within the corporate limits of Los Angeles. I know Lugo's line, it having been shown me by Lugo himself, and having seen a large stone, which is the boundary mark.

Cross-examined by U. S. Att'y.

Ques. How long have you lived in California?
Ans. Since June, 1850.
Ques. How long have you known Lugo?
Ans. Over four years.

Testimony of Wm. G. Dryden, a witness of appellees, taken in open court, and filed Sept. 14, 1855.

(Signed) C. E. CARR, *Cl'k.*

Testimony of Felipe Lugo.

No. 9. FRIDAY, *Sept.* 14, 1855.

Felipe Lugo, sworn and examined by counsel for appellee. Wm. G. Dryden sworn as interpreter.

1st ques. What is your name, age, and place of residence?

Ans. My name is Felipe Lugo; my residence here in Los Angeles, and my age 47 years.

2 ques. Do you know anything about a petition presented on behalf of your father, Antonio Ma. Lugo, asking the Mexican government for the rancho of San Antonio?

Ans. I do know of that petition; I presented it by command of my father.

3d ques. In that petition you make reference (objected to) to a map; by whom was that map made?

Ans. Don Abel Stearns made the map.

4th ques. Are you acquainted with Januario Abila; if so, do you know in what public capacity he acted in 1839, in this place?

Ans. I know him; he was regidor in that year.

Cross-examined by U. S. Att'y.

Ques. 1. Do you at this time own any part of this rancho of San Antonio, which was granted to your father?

Ans. Yes; I am owner of a piece of that land, that my father has given me lately.

Ques. 2. Who made the first and oldest map of the ranch of your father, of San Antonio?

Ans. Abel Stearns made the first and oldest map.

Ques. 3. Was there any map which belonged to the old espediente, previous to the application to Gov. Alvarado in 1837, for this land?

Ans. I do not remember whether there was a map to that espediente, or not.

Ques. 4. Have you seen any of those papers which you have referred to, in the possession of Mr. Foster, within the last year or two?

Ans. No, I never saw them in the possession of Foster. I only know so because my father told me so.

Ques. 5. Do you know when your father gave those old papers you have spoken of, to Foster?

Ans. I think that in the last past year my father gave Mr. Foster all my papers.

Decree of Confirmation.

In the District Court of the United States for the southern district of California.

ANTONIO MARIA LUGO, appellee, ads. THE UNITED STATES, appellants. } Case No. 9.—"San Antonio." Transcript 308.

This cause coming on to be heard on appeal from the final decision of the United States board of land commissioners to ascertain and settle

the private land claims in the State of California, under an act of Congress approved March 3d, 1851, on a transcript of the proceedings and decision of said board, and of the papers and evidence upon which said decision was founded, and it appearing to the court that said transcript and the notice of appeal have been duly filed, according to law, and counsel for the respective parties having been heard, it is ordered, adjudged and decreed, that the said decision of the United States board of land commissioners be, and the same hereby is, affirmed; and it is further adjudged and decreed that the claim of the above named appellee is good and valid, and the same is hereby confirmed to him, to the extent of and within the boundaries called for in the grant, and described in the map to which the grant refers, and which more fully appear in the act of judicial possession, to wit: commencing at a point on the edge of the bluff of the river of Los Angeles, about two hundred varas above the house occupied by the appellee at the date of said judicial possession, at which point a bullock's head was fixed as a landmark; thence north 76° E. four thousand eight hundred (4800) varas, more or less, to the intersection of the road from Los Angeles to Santa Gertrudes, and the road from San Gabriel to the port of San Pedro; thence N. 32° E. five thousand two hundred varas (5,200), more or less, to a point between the hills where there is a spring and some small willow trees; thence E. 28° S. five thousand two hundred (5,200) varas, more or less, to the river of San Gabriel, at the point where Felipe Lugo had a hut or "jacal" at the date of the aforesaid judicial possession; thence following the river down S. 18° west (15,000) fifteen thousand varas, more or less, to a willow thicket, and thence three hundred (300) varas further down, to the boundary of the rancho of San Pedro; thence N. 82° west, passing the large sycamore tree that forms the boundary of the rancho of San Pedro, five thousand (5,000) varas, more or less, to the "zanja" or trench of water which forms a fork on the side of the road leading from Los Angeles to San Pedro; thence N. 18° W. across the swamp (cienga) on the other side of said road, nine thousand five hundred (9,500) varas, more or less, to the point called Las Viejas, where an alder tree, standing at the side of said road, was marked with hatchet cuts; thence north 10° east, passing the large sycamore standing on the river of Los Angeles, three thousand five hundred (3,500) varas, more or less, to the edge of the bluff and point of beginning.

(Signed) ISAAC S. K. OGIER,
U. S. Dist Judge.

Filed March 7th, 1856.
(Signed) C. E. CARR, *Cl'k*,
By O. MORGAN, *Dept.*

In the District Court of the United States for the southern district of California.—Los Angeles—December Term, 1855.

A. M. Lugo, appellee,
vs.
The United States, appellants. } No. 9.—(No. 308 of Transcript.)

On appeal from the U. S. land commission.

On motion of P. Ord, Attorney of the United States for the southern district of California, it is hereby ordered by the court, that an appeal be granted the United States, to the Supreme Court of the United States, from the judgment of this court against the said United States, in the above entitled cause, rendered on or about the 3d day of December, A. D. 1855.

(Signed) P. ORD, *Dist. Att'y.*

Filed March 7th, 1856.

(Signed) C. E. CARR, *Cl'k*,
By O. MORGAN, *Dep'y.*

District Court of the United States,
Southern District of California.

Clerk's Office, Los Angeles.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, hereby certify the foregoing eighteen pages, numbered from 1 to 18, to contain a full, true and correct transcript of the record of the proceedings, and decision of said court, of the documentary evidence and testimony of witnesses on which the said decision was founded, on file in this office in case No. 9 on the docket of said court, wherein Antonio Maria Lugo is appellee, and the United States are appellants, for the place called "San Antonio."

[SEAL.] In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Los Angeles, California, this 28th day of April, A. D. 1856, and of the independence of the United States of America the eightieth.

C. E. CARR, *Cl'k*,
By O. MORGAN, *Dep'ty.*